

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

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|----------------------|---|--------------------------------|
| Julien Garcon, |) | |
| |) | |
| Petitioner, |) | |
| |) | Civil Action No. 6:14-4332-RMG |
| |) | |
| vs. |) | |
| |) | |
| Warden Maureen Cruz, |) | |
| |) | ORDER |
| Respondent. |) | |
| |) | |
| |) | |

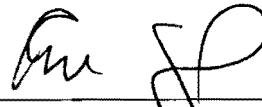
This matter comes before the Court on a Report and Recommendation (“R & R”) of the Magistrate Judge recommending that Respondent’s motion for summary judgment be granted and Petitioner’s claims submitted pursuant to 28 U.S.C. § 2241 be dismissed. (Dkt. No. 25). In making those recommendations, the Magistrate analyzed Petitioner’s claims that his due process and equal protection rights were being violated by the decision of the Bureau of Prisons (BOP) to deny him admission into drug treatment and other programs that may shorten his sentence because of his classification as a deportable alien with an immigration detainer. The Magistrate Judge concluded that the challenged BOP policies did not violate the constitutional rights of Petitioner. (*Id.* at 5-8). Petitioner filed objections to the R & R, again arguing that the BOP policies violated his constitutional rights and that there was, in fact, no valid detainer in place. (Dkt. No. 31). In reply, the Respondent attached documents indicting that an immigration detainer is in place regarding Petitioner. (Dkt. No. 33-1 at 3).

The Magistrate Judge makes only a recommendation to the Court. The recommendation

has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 260, 270-71 (1975). The Court may “accept, reject, or modify, in whole or in part, the findings and recommendations of the magistrate judge.” 28 U.S.C. 636(b)(1).

The Court has carefully reviewed the R & R of the Magistrate Judge, the Petitioner’s objections, the Respondent’s response, the record evidence and the applicable statutory and case law. The Court finds that the Magistrate Judge ably summarized the factual and legal issues in this matter and correctly concluded that Respondent is entitled to summary judgment as a matter of law. Therefore, the Court (1) **ADOPTS** the R & R (Dkt. No. 25) as the order of the Court; (2) **GRANTS** Respondent’s motion for summary judgment (Dkt. No. 18); and (3) **DISMISSES** the petition with prejudice.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court

July 28, 2015
Charleston, South Carolina